

BEFORE THE TENNESSEE ETHICS COMMISSION

In re:)	No. 2008-02
)	
AMERICAN COMMISSARY SUPPLY-)	
USINC,)	
)	
Respondent.		

ORDER FINDING GOOD CAUSE

This matter came on to be heard by the Tennessee Ethics Commission ("Commission") on June 24, 2008, at its regularly scheduled meeting upon Commission staff's presentation of documentation substantiating that Respondent failed timely to file a Semi-Annual Lobbying Expenditure Report which each employer of a lobbyist is required to file pursuant to Tenn. Code Ann. § 3-6-303(a).

FINDINGS OF FACT

Based on the entire record in this matter, the Commission finds as follows:

1. Registration. American Commissary Supply-USINC was registered as an employer of a lobbyist for 2007. On November 13, 2008, the Commission sent American Commissary Supply a Notice of Failure to pay Registration Fee. Shortly after receiving the Notice, American Commissary Supply paid the registration fee.

2. Semi-Annual Lobbying Expenditure Report.

A. In October 2007, Commission staff notified American Commissary Supply-USINC by electronic mail that it was required to file a Semi-Annual Lobbying Expenditure Report ("Report") for the period ending September 30, 2007, and that such Report was due to be filed by November 15, 2007.

B. As of November 15, 2007, American Commissary Supply-USINC had not filed its Report for the period ending September 30, 2007.

C. On December 5, 2007, Commission staff mailed American Commissary Supply-USINC a Notice of Failure to File Semi-Annual Lobbying Expenditure Report by first class mail.

D. American Commissary Supply-USINC did not respond to said Notice and did not file its Report.

E. American Commissary Supply-USINC timely filed its Report for the period ending March 31, 2007.

F. American Commissary Supply-USINC is in possession of the Commission's manual for lobbyists and employers of lobbyists as required by Tenn. Code Ann. § 3-6-114(c) (1), which contains the requirement of filing Reports.

G. American Commissary Supply-USINC had sufficient notice of the requirement of filing the Report for the period ending September 30, 2007, in advance of its due date of November 15, 2007.

3. Notice of violation.

A. On March 12, 2008, Commission staff sent American Commissary Supply-USINC, by certified mail, return receipt requested, a Notice that the Commission intended to consider assessment of civil penalties against American Commissary Supply-USINC at its April 22, 2008 meeting, because of its failure to file its Report by November 15, 2007 ("Show Cause Notice")

B. The Show Cause Notice set forth the allegations, the maximum amount of civil penalties that could be assessed, the date, place, and time of the meeting, and American Commissary Supply-USINC opportunity to participate in an informal proceeding at the meeting either by appearing personally or by submitting a sworn statement and documents.

C. The Commission received a return receipt substantiating that American Commissary Supply-USINC received the Show Cause Notice on March 17, 2008.

4. Filing of Report. The Commission received American Commissary Supply-USINC's Semi-Annual Lobbying Expenditure Report on March 14, 2008.

5. Showing of Cause. American Commissary Supply-USINC sent several correspondence to explain its failure to file its Report by November 15, 2007. It's President stated that it had not employed a lobbyist after January 1, 2007 and therefore thought it was no longer required to complete the November 15, 2007 Report.

CONCLUSIONS OF LAW

1. American Commissary Supply-USINC had no duty under Tenn. Code Ann. § 3-6-303(a) to file a Report for the six (6) month period ending September 30, 2007, as it did not have a lobbyist after January 1, 2007.

2. Therefore, American Commissary Supply-USINC did show good cause why it failed to file its Report by November 15, 2007.

3. Therefore, pursuant to Tenn. Code Ann. § 3-6-303(a), no civil penalty may be imposed.

ORDER

It is therefore ORDERED as follows:

1. American Commissary Supply-USINC did show good cause why it failed to file its Report by November 15, 2007.
2. The Executive Director shall enter this Order.
3. The Executive Director shall cause a copy of this Order to be provided to the Respondent, by either personal service, certified mail, return receipt requested, or overnight delivery.

SO ORDERED, this 30th day of June, 2008

TENNESSEE ETHICS COMMISSION

By: _____
Bruce A. Androphy, Executive Director